

BILL # HB 2573

TITLE: off-highway vehicles; user fee

SPONSOR: Weiers J.

STATUS: House Engrossed

PREPARED BY: Art Smith

FISCAL ANALYSIS

Description

HB 2573 makes several changes related to Off-Highway Vehicles (OHVs). Among the major changes, the bill would:

1. Modify the distribution of OHV Recreation Fund revenues.
2. Replace the current vehicle license tax (VLT) for small OHVs operating on-road with a flat \$3 tax.
3. Eliminate small OHV registration fees, which are now paid only if the vehicle is used on-road.
4. Eliminate the lifetime provision for OHV license plates.
5. Require that the Arizona Game and Fish Department, the State Land Department and the Arizona State Parks Board (SPB) spend a portion of their respective OHV Recreation Fund monies for enforcement of OHV laws.
6. Add new OHV operating restrictions, which would result in a class 3 misdemeanor, if violated.

If enacted, the bill would become effective December 31, 2008.

Estimated Impact

The bill would generate a net \$5.4 million in new revenue for a full year in FY 2010, which includes \$7.2 million in new OHV user fees, \$1.4 million in new title and license plate fees, a loss of \$(2.7 million) in VLT collections as a result of replacing the current tax with a flat \$3 payment, and a loss of \$(445,500) in annual registration fees.

Of the \$7.2 million in new OHV user fees estimated to be collected in FY 2010, \$5 million would be distributed to 3 state agencies. Including the impact of the motor fuel tax distribution, this would result in \$2.7 million for SPB, \$1.9 million for the Department of Game and Fish and \$398,600 for the State Land Department. These amounts would help the agencies meet new enforcement requirements.

While \$5 million of the \$7.2 million in new OHV user fees would be distributed to state agencies for deposit into the OHV Recreation Fund, \$1.1 million would be allocated to the State Highway Fund and \$1.1 million to local governments for transportation funding.

Beyond the new user fee, the bill is forecast to generate \$1.4 million in added revenue from title and license plate fee enforcement. Of the \$1.4 million, \$681,000 would be distributed to ADOT and local governments would receive \$759,000.

The bill is forecast to reduce VLT revenue by \$(2.7 million) by replacing the current VLT for small OHVs operating on-road with a flat \$3 tax. This loss would be shared between the State Highway Fund (\$627,800) and local governments (\$2,101,900). Additionally, registration revenue is forecast to reduce by at least (\$445,500) by eliminating the registration fee for small OHV users, resulting in a shared loss of (\$221,400) to the State Highway Fund and (\$224,100) to local governments.

Overall, State Highway Fund revenues would increase by \$916,500 in FY 2010 (\$1.1 million from OHV user fees and net loss of \$168,200 from all other provisions).

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Table 1

Changes In Fee Structure

<u>Fee</u>	<u>Current Statute</u>	<u>HB 2573</u>
Registration for Small OHVs	\$8 - 9 ^{1/}	\$0
User Fee ^{2/}	Not in current statute	20 ^{3/}
Title Fee	4	4
License Plate Fee	8	8
Vehicle License Tax ^{1/}	Varies	3

Change in Revenue

<u>Provision</u>	<u>Revenue Impact</u>
Registration for small OHVs	\$ (445,500) ^{4/}
User Fee	7,160,000 ^{5/}
Title Fee Enforcement	480,000
License Plate Fee Enforcement	960,000 ^{6/}
Vehicle License Tax	(2,729,700) ^{7/}
Total	\$ 5,424,800 ^{8/}

Change in ADOT Spending

<u>Provision</u>	<u>Spending Impact</u>
Registration for Small OHVs	\$ 430,200
User Indicia	358,000
License Plates	1,135,800
Computer Programming for New Provisions	366,700
Total	\$ 2,290,700

Changes in Transportation Revenue

	<u>OHV User Fee</u>	<u>\$3 OHV VLT</u>	<u>Title/License Plate Fee</u>	<u>Registration Fee</u>	<u>Total FY 2010</u>
State Highway Fund	\$1,084,700	\$ (627,800)	\$ 681,000	\$(221,400)	\$916,500
Local Distributions	1,063,300	(2,101,900)	759,000	(224,100)	(503,700)
Total	\$2,148,000	\$ (2,729,700)	\$1,440,000	\$(445,500)	\$412,800

Changes in Non-ADOT Revenues

	<u>Motor Fuel Tax Distribution</u>	<u>OHV User Fee</u>	<u>Total FY 2010</u>
Arizona Game & Fish Department	\$ 176,000	\$1,754,200	\$1,930,200
State Land Department	148,000	250,600	398,600
Arizona State Parks Board	(324,000)	3,007,200	2,683,200
Total	\$ 0	\$5,012,000	\$5,012,000

^{1/} Under current statute, dirt bikes qualify as motorcycles when registered and therefore pay \$9.

^{2/} Applies to small OHVs (weighing 1,800 pounds or less) only. The current VLT applies to vehicles operated on-road and varies depending on vehicle value and age.

^{3/} The fee amount is not established in the bill. Estimate of the fee was provided by the Arizona Department of Game and Fish.

^{4/} Estimate is based on 55,687 small OHVs paying \$8.

^{5/} Represents 1 full year of fee collection, beginning in FY 2010.

^{6/} Represents the 120,000 unregistered OHVs that would obtain a new license plate. In addition, there would be an additional \$2.1 million associated with currently registered OHVs obtaining the new license plate (265,000 x \$8). All currently registered OHVs are expected to obtain new license plates within the first few fiscal years.

^{7/} Based on estimate from Game and Fish that 55,687 small OHVs are currently registered for highway use. The revenue loss may be greater if unregistered vehicles apply for highway use at the time of registration.

^{8/} Of this amount, \$3.8 million increases transportation revenue and \$5.0 million increases non-ADOT revenues (*see Changes in Transportation Revenue and Changes in Non-ADOT Revenues below*).

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In addition, the bill is forecast to generate \$2.1 million in license plate revenue with the elimination of the lifetime OHV plate. This amount is not included in the \$5.4 million revenue estimate as the timing of this revenue is uncertain, but is likely to occur in the next several years.

The bill is projected to result in one-time implementation costs of \$2.3 million from the State Highway Fund. Based on JLBC Staff estimates, the \$2.3 million would include costs of \$1.1 million to issue newly designed license plates for currently registered OHVs, \$358,000 for OHV decals, \$366,700 for computer programming, and \$430,200 in higher registration costs. There may be some ongoing costs, but these are expected to be substantially lower than the \$2.3 million for start up.

Table 1 above displays the changes in fee structure, revenue and spending.

Analysis

Motor Fuel Tax Distribution

The OHV Recreation Fund receives a 0.55% share of motor fuel taxes, and does not currently receive revenue from any other sources. The Arizona State Parks Board currently receives 70% of this amount, and the Arizona Game & Fish Department receives the remaining 30%.

The bill would instead allocate 35% of fund revenues to the Arizona Game & Fish Department, 5% to the State Land Department, and 60% to the Arizona State Parks Board. In FY 2010, this would amount to an additional \$176,000 to the Arizona Game & Fish Department and \$148,000 to the State Land Department from the total shift of \$(324,000) from the Arizona State Parks Board to these agencies.

OHV Recreation funds are used by the Arizona Game & Fish Department for informational and educational programs for off-highway vehicle recreation, and for OHV law enforcement activities. Monies received by the Arizona State Parks Board are for administrative costs, OHV law enforcement, educational programs, habitat mitigation, facility development, and land acquisition. Under the new allocation, the State Land Department would receive funding for OHV law enforcement, management, and mitigation of OHV use on state trust lands.

Provisions

The bill addresses 5 main components that apply to OHV use, which are discussed in the following sections. (*See Table 1*)

1. Registration
2. OHV User Fee
3. License Plate Fee
4. Title Fee
5. Vehicle License Tax

The bill states that small OHVs, weighing 1,800 pounds or less, would have to pay a new annual user fee, but would not necessarily have to register their vehicle. Currently, small OHVs only pay a registration fee if the vehicle is used on-road. In the event that a small OHV owner signs an affidavit stating that their vehicle is also viable for on-road use, they would have to register their OHV under the bill, but at no additional cost. Title fees remain unchanged from what is contained in current statute. While the license plate fee amount for OHVs remains unchanged, the bill adds a requirement for ADOT to establish procedures for replacing all OHV license plates by FY 2010, although it is not known when the actual plates would be distributed. Although there is no additional registration cost, a small OHV that is approved for on-road use would have to pay an annual vehicle license tax of \$3.

Based on Game and Fish estimates, there are 265,000 currently registered OHVs – 238,000 small OHVs and 27,000 OHVs that weight more than 1,800 pounds.

Registration and User Fees

The bill would require a small OHV to be issued a decal by ADOT in order to use the vehicle on designated trails or areas. ADOT would charge an OHV user fee for the decal, which would be valid for one year. Upon paying the OHV user fee, ADOT would register the vehicle for highway use, if requested. The owner of the vehicle must also sign an affidavit stating that their OHV meets all the requirements to be operated on highways and that the OHV will be operated primarily off highway. The OHV user fee would be determined by ADOT in cooperation with the Arizona Game & Fish Department and

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the Arizona State Parks Board. Revenues from the OHV user fee would be deposited into the OHV Recreation Fund and the HURF. ADOT estimates an implementation cost of \$358,000 for OHV decals.

The Arizona Game & Fish Department estimates that a \$20 user fee would be sufficient to cover the cost of the program. It is estimated that 358,000 small OHVs would pay an annual OHV user fee. While a departmental survey estimated the current number of unregistered small OHVs to be at least 200,000, the department assumes that 120,000 of these will actually register due to the bill's requirement that the Arizona Game and Fish Department, the State Land Department and the Arizona State Parks Board spend some of their respective OHV Recreation Fund monies for enforcement of OHV laws. Combined with 238,000 small OHVs currently registered, the bill would result in a total of 358,000 OHVs paying the annual user fees.

Based on the department's estimate of 358,000 small OHVs paying annual user fees and an estimated OHV user fee of \$20, the fee would generate approximately \$3,580,000 in FY 2009, which would grow to \$7,160,000 in FY 2010. Thirty percent of these revenues would be allocated to HURF, and the remaining 70% would be allocated to the OHV Recreation Fund. Of the total \$5,012,000 allocated to the OHV Recreation Fund in FY 2010, \$1,754,200, or 35% would be allocated to the Arizona Game & Fish Department; \$3,007,200, or 60% to the Arizona State Parks Board; and \$250,600, or 5% to the State Land Department.

Under current statute, registered OHVs pay an annual \$8 registration fee if they are operated on-road, unless they are motorcycles, in which case they would pay an annual fee of \$9. ADOT does not know how many small OHVs are dirt bikes, which would qualify for the \$9 motorcycle registration, so the \$8 fee is used in this analysis with the understanding that there are some currently registered small OHVs that are paying the higher fee. As described further in the VLT section below, Game and Fish estimates that 55,687 small OHVs are currently operated on-road. Under the bill, these on-road OHVs would no longer have to pay the registration fee, if the OHV is not originally manufactured for on-road use, but are later modified by the owner to be used on-road. In the event that a small OHV is manufactured for on-road operation, it would continue to pay the registration fee. If all 55,687 of the vehicles are modified, rather than manufactured, for on-road use, the bill would result in a loss of at least \$(445,500) to HURF (55,687 small OHVs x \$8 registration fee).

Of the total \$2,148,000 allocated to HURF, \$1,084,700 would be distributed to the State Highway Fund and \$1,063,300 would be distributed to local governments. However, the elimination of registration fees would result in a loss of \$(445,500) out of which, the State Highway Fund would lose \$(221,400) and local governments would lose \$(224,100). If any of the 55,687 registered small OHVs are manufactured to be used on-road, then the loss of monies would be reduced by at least \$8 per vehicle; however, most small OHVs are not built for on-road use.

JLBC Staff estimates that MVD would have a one-time cost of \$430,200 for 9 clerks to register the 120,000 currently unregistered small OHVs in FY 2009. The need for 9 clerks is based on MVD's estimate that a clerk can perform an average of 50 transactions per day. The 120,000 small OHV registrations would represent a 2.3% increase over the 5,294,000 MVD field office transactions in FY 2006. Beyond FY 2009, workload in MVD field offices would decrease significantly, since 78% of all vehicle registration renewals are completed through alternate methods, such as renew-by-mail and the internet.

ADOT did not estimate the fiscal impact of additional customers visiting MVD offices to register their currently unregistered OHVs. ADOT is uncertain as to how many OHVs are currently unregistered.

License Plates and Titles

The license plate requirements for OHVs would also be altered under the bill. Current statute requires OHVs to pay a one-time fee of \$8 for a license plate and a \$4 title fee. The State Highway Fund receives \$1 of this amount and the remaining amount is deposited into the HURF. The bill would eliminate the lifetime provision for license plates; however, the bill does not specify a timeframe for a license plate renewal.

The bill would require that ADOT establish procedures by July 1, 2009 to systematically replace OHV license plates issued before January 1, 2009, with newly designed OHV license plates. The bill does not specify, however, when the newly designed OHV license plates must be purchased. JLBC Staff estimates an implementation cost of \$1,135,800 (385,000 currently and newly registered large and small OHVs x ADOT cost of \$2.95 per plate) to issue newly designed license plates for currently registered OHVs. ADOT will need to establish a process for replacing the current plates. ADOT could be expected to generate \$2.1 million in revenue over the next several years from these new plates for both small and large OHVs (265,000 OHVs x \$8). In addition, ADOT would receive \$960,000 from the efforts to enforce OHV registration requirements (120,000 small OHVs x \$8).

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Additionally, by July 1, 2009 all OHVs must have a certificate of title, regardless of whether or not the vehicle would also be used on-road. The implementation cost of titling all OHVs is not yet known, but titles are expected to produce about \$480,000 in revenue from the 120,000 unregistered small OHVs paying the \$4 fee.

Vehicle License Tax

Current statute allows VLT exemptions for certain classifications of small OHVs. Those registered small OHVs that operate on-road pay a VLT under the current statutory formula. The current formula takes 60% of the base retail price as an assessed value, then charges \$2.80 per \$100 of the assessed value, if the vehicle is purchased new. In subsequent years, the assessed value is reduced by 16.25%, but the tax is charged at a rate of \$2.89 per \$100 of the assessed value. The same assessed value and annual reductions apply to used vehicles, but used vehicle ownership the tax is \$2.89 per \$100 of the assessed value every year. Under current statute, a minimum \$10 VLT is charged to all registered vehicles.

The bill would establish a \$3 annual VLT for the small OHVs paying an annual OHV user fee, if owners of those OHVs sign an affidavit stating that their vehicles are viable on-road, as well as off-highway. Based on a survey conducted by Game and Fish, 55,687 out of 238,000 currently registered small OHVs would be used on the highway. ADOT states that there are currently 38,000 ATVs registered for on-road use. However, it is possible that this number excludes other types of small OHVs such as dirt bikes, off-road golf carts and motorized trail bikes, which could all be registered for use on-road.

Based on the 55,687 vehicle estimate by Game and Fish, the new \$3 VLT would generate \$167,100 in revenue. However, it is possible that this estimate of VLT revenues could increase with the registration of 120,000 additional small OHVs, because some of the newly registered small OHVs could be approved for on-road use.

For the purposes of this analysis the average OHV operating on-road is estimated to have a value of \$3,000. ADOT did not have an estimate of the value of on-road OHVs, so this simplifying assumption was used instead. At the \$3,000 average value, the current VLT would be \$52.02. If a VLT is collected according to current statute, revenues would be \$2,896,800 (55,687 small OHVs x \$52.02). If a flat \$3 VLT is collected, revenues would be \$167,100 (55,687 small OHVs x \$3).

OHV Violation Fines

The bill amends statute to add criteria for issuing citations for violating OHV regulations that would result in a class 3 misdemeanor. The criteria for class 2 misdemeanors remain unchanged. Fines for class 2 misdemeanors are determined by the court, but are not to exceed \$750, while fines for class 3 misdemeanors are not to exceed \$500. Statute currently allows judges to order community service or completion of an approved OHV safety course in addition to or in lieu of the monetary fines, and this provision is maintained in the bill. Fines are distributed to the jurisdiction in which the court is held, as stipulated by A.R.S. § 13-811. (*See Local Government Impact for additional discussion.*)

Local Government Impact

A new OHV user fee of \$20 would contribute \$1,063,300 to local governments, in addition to \$(2.1 million) and \$(445,500) in reduced revenues from the new \$3 OHV VLT and the elimination of small OHV registrations, respectively, as well as \$759,000 from license plate and title fee enforcement. The net impact of the bill to local governments would be at least \$(503,700). In addition, local governments would receive a share of the \$2.1 million in license plate revenue with the elimination of the lifetime plate.

The bill eliminates a provision in current statute that establishes a matching fund program for law enforcement. SPB would be required to use a portion of its \$3 million share of OHV user fees for the purpose of enforcing OHV laws, however, the bill does not outline criteria under which a local government agency would receive these monies.

The addition of violations that qualify as a class 3 misdemeanor could result in increased revenues from fines. Although there is a possibility that an increase in enforcement activity would result in a cost, it is unknown if the additional revenue generated from citations would offset these expenses.